

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

WORKERS' COMPENSATION COURT
APPELLATE DIVISION

MARIA SANTORO

)

)

VS.

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W.C.C. 99-01223

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CITY OF PROVIDENCE SCHOOL
DEPARTMENT

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DECISION OF THE APPELLATE DIVISION

OLSSON, J. This matter is before the Appellate Division on the petitioner/employee's appeals from the denial of her motion to claim an appeal out of time and motion to proceed *in forma pauperis* in order to pursue that appeal. After careful review of the record available to us, we find that the trial judge did not abuse his discretion in denying the two (2) motions and we, therefore, deny and dismiss the employee's appeals.

There were nine (9) petitions involving the same parties which had been filed at various times during 1997 relating to alleged injuries sustained by the employee in 1994 and thereafter. These matters were consolidated by the trial judge for hearing and decision. Near the conclusion of the trial in those matters, the instant petition, W.C.C. No. 99-01223 was filed. The trial judge did not consolidate this matter with the others. Ms. Santoro, currently sixty-six (66) years old, has represented herself, without assistance, in all of the matters.

The case before this appellate panel presently was initiated as an Employee's Petition to Review. Although the employee checked off all ten (10) allegations on the pre-printed form, it appears that she was primarily seeking approval of and payment for acupuncture treatment. The trial judge rendered a bench decision and on February 20, 2003, a decree was entered denying the employee's petition. On July 30, 2003, the employee filed a motion to allow her to file an appeal out of time. The motion was heard on August 14, 2003 and an Order entered on August 15, 2003 denying the motion. The employee filed a claim of appeal to the Appellate Division from this denial.

On August 25, 2003, the employee filed a motion to proceed *in forma pauperis* and to waive the costs of the appeal which included the filing fee and the cost of the relevant portions of the transcript. On September 11, 2003, this motion was heard and denied. The employee also filed a claim of appeal with regard to this denial. She paid the filing fee for both appeals, but never ordered any portion of the transcript of any of the hearings.

The two (2) motions heard by the trial judge were addressed to his sound discretion and our review is limited to the question whether he abused that discretion in denying both of the motions. However, without at least a transcript of the trial judge's decision on the motions, we are unable to examine what evidence or factors he relied upon in denying the motions. Section 28-35-28(a) of the Rhode Island General Laws states that the appellant shall provide to the appellate division "so much of the transcript of testimony and rulings as he or

she deems pertinent. . . .” Lacking any information as to the basis of the trial judge’s decisions, we cannot perform a meaningful review of those decisions and have no choice but to affirm his determinations.

The employee may argue that the denial of her motion to proceed *in forma pauperis* precluded her from obtaining the necessary portions of the transcript, resulting in a sort of “Catch-22” situation. However, it should be noted that the employee paid Fifty and 00/100 (\$50.00) Dollars to file the two (2) claims of appeal regarding these motions after that denial. This is some indication that the employee has some resources available to her. Furthermore, although there is no information in the file as to the estimated cost of the transcripts of the bench decision regarding the motions, it is difficult to believe that the cost would be particularly excessive.

In addition to the problem presented by the lack of any transcript, the employee’s reasons of appeal lack the specificity required by the statute and case law. Ms. Santoro filed her reasons of appeal on October 14, 2003 in a five (5) page handwritten statement and then supplemented that document with another five (5) page document filed on November 14, 2003. These documents contain general allegations and statements of problems with attorneys she consulted, problems with the School Department failing to recognize the validity of her claims, problems with doctors misdiagnosing her various conditions, and problems in representing herself in all of the litigation involving her alleged injuries.

Section 28-35-28(a) of the Rhode Island General Laws requires that the appellant file “reasons of appeal stating specifically all matters determined adversely to him or her which he or she desires to appeal, . . .” It is not the responsibility of this panel to attempt to sift through this information and attempt to ascertain the errors the employee is appealing. As stated in Falvey v. Women and Infants Hosp., 584 A.2d 417 (R.I. 1991), by the Rhode Island Supreme Court:

“The Appellate Commission’s recognition of the general result desired by petitioner does not relieve her of the burden of specifying in what manner or where in the record the trial commissioner allegedly erred.” Id. at 419.

Unfortunately, the employee’s lack of knowledge of the procedures and practices of the Workers’ Compensation Court may have adversely affected her ability to prosecute her claims. We are sympathetic to the fact that she believes that she has been unfairly denied benefits by the School Department for alleged injuries which she contends have caused her ongoing medical problems. However, the court cannot act as legal advisor simply because Ms. Santoro is representing herself. “Even if a litigant is acting pro se, he or she is expected to familiarize himself or herself with the law as well as the rules of procedure.” Faerber v. Cavanagh, 568 A.2d 326, 330 (R.I. 1990).

Based upon the foregoing, the employee’s appeals of the denial of her motion to file an appeal out of time and of the denial of her motion to proceed *in*

forma pauperis are denied and dismissed. The orders of the trial judge are affirmed.

In accordance with Rule 2.20 of the Rules of Practice of the Workers' Compensation Court, a final decree, a copy of which is enclosed, shall be entered on

Healy and Connor, JJ. concur.

ENTER:

Healy, J.

Olsson, J.

Connor, J.

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FINAL DECREE OF THE APPELLATE DIVISION

This cause came on to be heard by the Appellate Division upon the appeals of the petitioner/employee from the denial of her motion to file an appeal out of time and the denial of her motion to proceed *in forma pauperis* and upon consideration thereof, the appeals are denied and dismissed, and it is:

ORDERED, ADJUDGED AND DECREED:

1. That the findings of fact and the orders contained in an Order of this Court entered on August 15, 2003 be, and they hereby are, affirmed.

2. That the findings of fact and the orders contained in an Order of this Court entered on September 15, 2003 be, and they hereby are, affirmed.

Entered as the final decree of this Court this day of

BY ORDER:

ENTER:

Healy, J.

Olsson, J.

Connor, J.

I hereby certify that copies were mailed to Maria Santoro and Paul
Gionfriddo, Esq., on
